IN THE U.S. PATENT AND TRADEMARK OFFICE

Application No.: 09/620,053 Group Art Unit: 2616

Filing Date: July 20, 2000 Examiner: Ian N. Moore

Appellant: Yang CAO

Title: APPARATUS AND METHOD FOR SYNCHRONOUS AND ASYNCHRONOUS SWITCHING OF INTERNET PROTOCOL TRAFFIC

Attorney Docket: 129250-000971/US

APPELLANTS' BRIEF ON APPEAL

MAIL STOP APPEAL BRIEF - PATENTS
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

August 29, 2008

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APPELLANTS' BRIEF ON APPEAL

I. REAL PARTY IN INTEREST:

The real party in interest in this appeal is Lucent Technologies Inc. Assignment of the application was submitted to the U.S. Patent and Trademark Office and recorded at Reel 011018, Frame 0738.

II. RELATED APPEALS AND INTERFERENCES:

There are no known appeals or interferences that will affect, be directly affected by, or have a bearing on the Board's decision in this Appeal.

III. STATUS OF CLAIMS:

Claims 1-42 are pending in the application, with claims 1, 12, 28 and 33 being written in independent form. No claims have been canceled. Claims 11, 24, 32 and 39 have been objected to.

The rejections are as follows: (a) claims 1 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,920,412 to Chang ("Chang '412") in combination with U.S. Patent No. 6,657,757 to Chang et al ("Chang '757"); (b) claims 2, 3, 7, 13, 14, 28 and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, and further in view of U.S. Patent No. 5,570, 355 to Dail ("Dail"); (c) claims 4-6 and 15-17 were rejected as being unpatentable over Chang '412, Chang '757, Dail and U.S. Patent No. 6,574,224 to Brueckheimer ("Brueckheimer"); (d) claims 8, 19, 29 and 34 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, Dail and U.S. Patent No. 5,982,771 to Caldara ("Caldara"); (e) claims 9, 20-22, 25-27, 30, 35-37 and 40-42 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, Dail and U.S. Patent No. 5,832,197 to Houji ("Houji"); and (f) claims 10, 23, 31, and 38 were rejected under 35 U.S.C. 103(a)

as being unpatentable over Chang '412 in view of Chang '757, Dail, Houji and Brueckheimer.

Claims 1-10, 12-23, 25-31, 33-38 and 40-42 are being appealed. The Appellants reserve their right to pursue the subject matter of claims 11, 24, 32 and 39.

IV. STATUS OF AMENDMENTS:

A Request for Reconsideration ("Request") was filed on May 7, 2008. In an Advisory Action dated May 16, 2008 the Examiner stated that the Request was considered but did not place the application in condition for allowance.

V. SUMMARY OF CLAIMED SUBJECT MATTER:

(i). Overview of the Subject Matter of the Independent Claims

The present invention is directed at the routing of Internet Protocol (IP) traffic, some of which is associated with an ATM service category using a so-called "hybrid" switch. More specifically, independent claim 1 reads as follows (specification citations are in parenthesis):

> **1. A hybrid telecommunications switch comprising:**
> **at least one circuit switch fabric** (page 7, line 23 to page 8, line 7);
> **at least one packet switch fabric** (page 7, line 23 to page 8, line 7); **and**
> **a controller configured to route IP traffic to the circuit switch fabric or packet switch fabric** (page 7, line 23 to page 8, line 7; and page 8, lines 14-16), **depending on an ATM service category of the IP traffic** page 8, line 27 to page 9, line 14; page 15, lines 11-22).

Independent claim 12 reads as follows:

> **12. A method for routing telecommunications traffic in a hybrid telecommunications switch comprising at least one packet switch**

fabric, at least one circuit switch fabric, and a controller (page 7, line 23 to page 8, line 7)**, including the step of:**

routing IP traffic to the circuit switch fabric or packet switch fabric, depending on an ATM service category of the IP traffic (page 8, lines 14-16; **and** page 8, line 27 to page 9, line 14).

Independent claim 28 reads a s follows:

28. A hybrid telecommunications switch comprising:

at least one circuit switch fabric (page 7, line 23 to page 8, line 7);

at least one packet switch fabric (page 7, line 23 to page 8, line 7);

a controller (page 7, line 23 to page 8, line 7) **configured to:**

route IP traffic to the circuit switch fabric or packet switch fabric, depending on an ATM service category of the IP traffic (page 8, lines 14-16; page 8, line 27 to page 9, line 14);

allocate circuit switch fabric resources to traffic falling within an ATM service category (page 13, line 23 to page 14, first full paragraph); **and**

allocate available circuit switch resources, as indicated by a resource table, to received IP traffic requests (Tables 1 and 2 on page 12; and page 14, line 5 to page 20,line 5).

Independent claim 33 reads as follows:

33. A method for routing telecommunications traffic in a hybrid telecommunications switch comprising at least one packet switch fabric, at least one circuit switch fabric, and a controller (page 7, line 23 to page 8, line 7)**, including the step of:**

routing IP traffic to the circuit switch fabric or packet switch fabric, depending on an ATM service category of the IP traffic (page 8, lines 14-16; **and** page 8, line 27 to page 9, line 14);

provisioning a portion of the circuit switch fabric resources for circuit switched traffic (page 14, second full paragraph, line 6; page 15, line 28 to page 16, line 8);

allocating the remaining portion of the circuit switch fabric resources to IP traffic as a controller routes the IP traffic to the circuit switch fabric (page 14, line 5 to page 20, line 5); **and**

allocating available circuit switch fabric resources, as indicated by a resource table, to IP traffic requests(Tables 1 and 2 on page 12; and page 14, line 5 to page 20,line 5).

In order to make the overview set forth above concise the disclosure that has been included, or referred to, above only represents a portion of the total disclosure set forth in the Specification that supports the independent claims.

(ii). The Remainder of the Specification Also Supports the Claims

The Appellants note that there may be additional disclosure in the Specification that also supports the independent and dependent claims. Further, by including the specification citations in parenthesis above the Appellants do not represent that this is the only evidence that supports the independent claims nor do Appellants necessarily represent that these citations alone can be used to fully interpret the claims of the present invention. Instead, the citations provide background support as an overview of the claimed subject matter.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL:

Appellants seek the Board's review and reversal of the following rejections: (a) claims 1 and 12 under 35 U.S.C. 103(a) based on Chang '412 in combination with Chang ; (b) claims 2, 3, 7, 13, 14, 28 and 33 under 35 U.S.C. 103(a) based on the combination of Chang '412, Chang '757 and Dail; (c) claims 4-6 and 15-17 under 35 U.S.C. 103(a) based on the combination of Chang '412, Chang '757, Dail and Brueckheimer; (d) claims 8, 19, 29 and 34 under 35 U.S.C. 103(a) based on the combination of Chang '412, Chang '757, Dail and Caldara; (e) claims 9, 20-22, 25-27, 30, 35-37 and 40-42 under 35 U.S.C. 103(a) based on Chang '412, Chang '757, Dail and Houji; and (f) claims 10, 23, 31, and 38 under 35 U.S.C. 103(a) based on Chang '412, Chang '757, Dail, Houji and Brueckheimer.

VII. ARGUMENTS:

A. The Section 103 Rejections Based On Chang '412 And Chang '757 In Combination With Other References.

The Examiner has rejected a number of claim sets under §103(a) based on the combination of Chang '412, Chang '757 and one or more other references as follows: (a) claims 1 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757; (b) claims 2, 3, 7, 13, 14, 28 and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, and further in view of Dail; (c) claims 4-6 and 15-17 were rejected as being unpatentable over Chang '412, Chang '757, Dail and Brueckheimer; (d) claims 8, 19, 29 and 34 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, Dail and Caldara; (e) claims 9, 20-22, 25-27, 30, 35-37 and 40-42 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, Dail and Houji; and (f) claims 10, 23, 31, and 38 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, Dail, Houji and Brueckheimer. Appellant respectfully disagrees for at least the following reasons.

(1) claims 1, 12, 28 and 33

Appellant respectfully submits that Chang '412 fails to teach or suggest: (a) the routing of IP traffic to a circuit switch fabric or packet switch fabric; and (b) such routing depending on an ATM service category of the IP traffic, as recited in claim 1 and 12 (as well as claims 28 and 33). Appellant notes that to streamline the appeal of the present claims the Appellant has focused his response on these features, it being understood that the Appellant does not acquiesce to the Examiner's other positions.

Initially, the Appellant notes that because the Examiner has rejected the claims based on a combination of a number of references and has not provided

a sufficient explanation as to how the many disparate references could possibly work in concert with one another there is a strong implication (in this case) that such rejections are inappropriate based on impermissible hindsight reconstruction.

Turning now to the two features discussed above, the Examiner has repeatedly acknowledged (as recently as page 3 of the Final Office Action) that Chang '412 is unrelated to IP traffic. Therefore, it follows that Chang '412 does not route IP traffic based on an ATM service category.

To overcome these deficiencies the Examiner appears to rely upon Chang '757. The Examiner states that "Chang '757 teaches routing IP traffic" to a circuit switch system or packet switch system (page 3 of the Final Office Action). However, the Examiner does not address whether Chang '757 accomplishes such routing depending on ATM service categories. It does not. Rather, Chang '757 discloses a "typical IP router" 111 without any other explanation. It is completely silent with respect to the routing of IP traffic using ATM service categories.

Thus, because the combination of Chang '412 and Chang '757 does not disclose or suggest the routing of IP traffic depending on an ATM service category such a combination does not render claims 1 and 12 (as well as 28 and 33) unpatentable based on obviousness.

Perhaps realizing the deficiency in the combination of Chang '412 and Chang '757 the Examiner appears to argue later on in the "Response to Arguments" section of the Final Office Action (and in the Advisory Action) that Chang '412 does disclose the routing of traffic based on a service category (not IP traffic though). Appellant disagrees.

In more detail, the Examiner appears to alternatively argue the following rationales: (a) that the phrase "ATM service category" in claims 1, 12, 28 and 33 is not defined; (b) that a "type check 24" in Chang '412 is used to route traffic to an STM or ATM switch based on an ATM service category/type; and

(c) that the phrases "real time signal" and "non-real time signal" as used in cited, but not applied prior art, establishes that these two phrases are ATM service categories. Appellant respectfully disagrees.

As the Examiner knows well, phrases in a claim must be interpreted in light of the specification. Unquestionably, the specification provides a clear indication of the meaning of the phrase "ATM service category" of IP traffic. For example, the specification provides two examples of such a phrase, namely, real-time (rt), Variable Bit Rate (VBR) IP traffic and Constant Bit Rate (CBR) IP traffic (see specification, page 5 lines 14-25; page 10, lines 5-10; page 11, entire page; and claims 5, 6, 10, 11, 15-17, 23, 31, 32 and 38, where the rt-VBR and CBR designations are two different ATM service categories of IP traffic).

Regarding the type check 24, as the Appellant has explained before, this value determines whether an optical signal is an ATM or STM signal without taking into consideration the ATM service level of any traffic type (see Chang '412, column 12, lines 13-14; 32-33; 53-54; and column 15, lines 25-52) much less IP traffic. In response the Examiner takes the position that the type check 24 categorizes a signal as either an STM or ATM signal based on "the wavelength of the optical carrier associated with the signal". However, optical wavelengths are not ATM service categories. Thus, the Examiner' statements appear to bolster the Appellant's position.

Lastly, the fact that the phrase "real time" is indicative of STM traffic and "non-real time" is indicative of ATM traffic does not imply that these two phrases are ATM service categories. In fact, it seems straightforward to the Appellant that traffic classified as STM traffic is not ATM traffic at all. Thus, it follows that STM traffic cannot be an ATM service category for IP traffic.

The Appellant believes the Examiner may be erroneously equating the phrase "real time" traffic with the phrase "real time-VBR" traffic. In general, the former phrase is typically equated with STM traffic while the latter is an ATM

service category. An example may help illustrate the difference between the two phrases. Voice-based traffic is typically considered real time traffic because of the need to transmit such traffic in real time (without delay). Voice based traffic is also considered STM traffic because it is transmitted or switched using STM or "circuit switched" based switches. Non-voice based traffic, such as IP traffic, was originally classified as non-real time traffic because it did not need to be transmitted in real time (i.e., some amount of delay was ok). Such traffic was not switched through an STM switch. However, generally speaking, as the amount of Internet and email-based IP traffic across existing networks increased (e.g. video and imaging), service providers began to offer services that promised to deliver IP traffic in real time as well. Thus, while IP traffic may be delivered in real time when designated by an ATM service category such as rt-VBR, and then sent to an STM switch, this does not mean that such traffic is STM traffic. Said another way, just because IP traffic designated by the ATM service category rt-VBR is sent to an STM switch does not transform such traffic into STM traffic. One of the advantages of the present invention is that existing STM switches that are normally used to handle traditional voice-based STM traffic can now also be used to handle IP traffic which is given a real-time service category designation.

In sum, it is respectfully submitted that claims 1, 12, 28 and 33 are not rendered obvious by the combination of Chang '412 and Chang '757 because this combination does not disclose or suggest the routing of IP traffic depending on an ATM service category.

(2) claims 28 and 33

Claims 28 and 33 differ from claims 1 and 12, among other things, in that they include the additional feature of allocating available circuit switch resources, as indicated by a resource table, to received IP traffic requests. The Examiner acknowledges that neither Chan '412 nor Chang '757 discloses such

allocations (see Final Office Action, page 5). To make for these deficiencies the Examiner relies upon Dail. Appellant respectfully disagrees.

More particularly, in the Final Office Action the Examiner takes the position that Dail discloses allocating the "remaining portion of the switch resources to non-STM traffic" (see page 5). Dail appears to allocate bandwidth based on whether a call is STM or ATM traffic and whether such traffic is associated with a VBR or CBR service category. However, claims 28 and 33 specify IP traffic and Dail does not disclose the reservation of bandwidth for IP traffic.

(3) the dependent claims

Because all of the dependent claims have been rejected under 35 U.S.C. §103(a) based on some combination of Chang '412, Chang '757 in addition to one or more additional references (Dail, Caldara, Houji or Brueckheimer) and because these additional references do not overcome the deficiencies of Chang '412, Chang '757 and Dail set forth above, the Appellant submits that the dependent claims are also patentable over the relied upon references for the reasons set forth above.

Conclusion:

Appellants respectfully request that members of the Board reverse the decision of the Examiner and allow claims 1-10, 12-23, 25-31, 33-38 and 40-42.

The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,
Capitol Patent & Trademark Law Firm, PLLC
By: /John E. Curtin/
John E. Curtin, Reg. No. 37,602

P.O. Box 1995
Vienna, VA 22183
(703)266-3330

VIII. CLAIMS APPENDIX

1. (Previously Presented) A hybrid telecommunications switch comprising:

at least one circuit switch fabric;

at least one packet switch fabric; and

a controller configured to route IP traffic to the circuit switch fabric or packet switch fabric, depending on an ATM service category of the IP traffic.

2. (Previously Presented) The switch of claim 1 wherein a portion of the circuit switch fabric resources are provisioned for circuit switched traffic and the remaining portion of the circuit switch fabric resources are allocated to IP traffic as the controller routes IP traffic to the circuit switch fabric.

3. (Previously Presented) The switch of claim 2 wherein the controller is further configured to allocate circuit switch fabric resources to traffic falling within an ATM service category.

4. (Previously Presented) The switch of claim 3 wherein the controller is further configured to route IP traffic associated with a constant bit rate (CBR) ATM service category to the circuit switch fabric.

5. (Previously Presented) The switch of claim 3 wherein the controller is further configured to route IP traffic associated with a real time variable bit rate (rt-VBR) ATM service category to the circuit switch fabric.

6. (Previously Presented) The switch of claim 3 wherein the controller is further configured to route IP traffic associated with an ATM service category which is neither CBR nor rt-VBR traffic to the IP switch fabric.

7. (Previously Presented) The switch of claim 3 wherein the controller is further configured to allocate available circuit switch resources, as indicated by a resource table, to received IP traffic requests.

8. (Previously Presented) The switch of claim 7 wherein the controller is further configured to maintain circuit switch ingress and egress resource tables.

9. (Previously Presented) The switch of claim 7 wherein the controller is further configured to pass an IP traffic request to a destination node and to establish an IP traffic path after having determined that all nodes along the proposed traffic path have accepted an IP traffic request.

10. (Previously Presented) The switch of claim 9 wherein the controller is further configured to determine whether IP traffic associated with the rt-VBR ATM service category is to be routed through the circuit switch fabric.

11. (Previously Presented) The switch of claim 10 wherein the controller is further configured to determine whether IP traffic associated with the rt-VBR ATM service category is to be routed through the circuit switch fabric based upon a peak to sustained packet rate ratio.

12. (Previously Presented) A method for routing telecommunications traffic in a hybrid telecommunications switch comprising

at least one packet switch fabric, at least one circuit switch fabric, and a controller, including the step of:

routing IP traffic to the circuit switch fabric or packet switch fabric, depending on an ATM service category of the IP traffic.

13. (Previously Presented) The method of claim 12 further comprising the step of:

provisioning a portion of the circuit switch fabric resources for circuit switched traffic, and

allocating the remaining portion of the circuit switch fabric resources to IP traffic as a controller routes the IP traffic to the circuit switch fabric.

14. (Previously Presented) The method of claim 13 further comprising the step of:

allocating circuit switch fabric resources to IP traffic.

15. (Previously Presented) The method of claim 13 further comprising the step of:

routing IP traffic associated with a CBR ATM service category to the circuit switch fabric.

16. (Previously Presented) The method of claim 13 further comprising the step of:

routing IP traffic associated with an rt-VBR ATM service category to the circuit switch fabric.

17. (Previously Presented) The method of claim 13 further comprising the step of:

routing IP traffic not associated with the CBR or rt-VBR ATM service categories to the IP switch fabric.

18. (Previously Presented) The method of claim 13 further comprising the step of:

allocating available circuit switch fabric resources, as indicated by a resource table, to IP traffic requests.

19. (Previously Presented) The method of claim 13 further comprising the step of:

maintaining circuit switch ingress and egress resource tables.

20. (Previously Presented) The method of claim 13 further comprising the step of:

passing an IP traffic request to a destination node.

21. (Previously Presented) The method of claim 20 further comprising the step of:

determining that all nodes along the proposed IP traffic path have allocated circuit switch fabric resources for the IP traffic.

22. (Previously Presented) The method of claim 21 further comprising the step of:

establishing an IP traffic path after the determination step.

23. (Previously Presented) The method of claim 21 further comprising the step of:

determining whether IP traffic associated with the rt-VBR ATM service category is to be routed through an IP switch fabric or the circuit switch fabric, wherein the IP switch fabric is one kind of packet switched fabric.

24. (Previously Presented) The method of claim 23 further comprising the step of:

comparing a sustained packet ratio to a threshold value.

25. (Previously Presented) The switch of claim 9 wherein the controller is further configured to pass an IP traffic request to a destination node.

26. (Previously Presented) The switch of claim 9 wherein the controller is further configured to determine that all nodes along a proposed IP traffic path allocate circuit switch fabric resources for IP traffic.

27. (Previously Presented) The switch of claim 26 wherein the controller is further configured to establish an IP traffic path after determining that all nodes along a proposed IP traffic path allocate circuit switch fabric resources for IP traffic.

28. (Previously Presented) A hybrid telecommunications switch comprising:

at least one circuit switch fabric;

at least one packet switch fabric;

a controller configured to:

route IP traffic to the circuit switch fabric or packet switch fabric, depending on an ATM service category of the IP traffic;

allocate circuit switch fabric resources to traffic falling within an ATM service category; and

allocate available circuit switch resources, as indicated by a resource table, to received IP traffic requests.

29. (Previously Presented) The switch as in claim 28 wherein the controller is further configured to maintain circuit switch ingress and egress resource tables.

30. (Previously Presented) The switch as in claim 28 wherein the controller is further configured to pass an IP traffic request to a destination node and to establish an IP traffic path after having determined that all nodes along the proposed traffic path have accepted an IP traffic request.

31. (Previously Presented) The switch as in claim 30 wherein the controller is further configured to determine whether IP traffic associated with an rt-VBR ATM service category is to be routed through the circuit switch fabric.

32. (Previously Presented) The switch as in claim 31 wherein the controller is further configured to determine whether IP traffic associated with the rt-VBR ATM service category is to be routed through the circuit switch fabric based upon a peak to sustained packet rate ratio.

33. (Previously Presented) A method for routing telecommunications traffic in a hybrid telecommunications switch comprising at least one packet switch fabric, at least one circuit switch fabric, and a controller, including the step of:

routing IP traffic to the circuit switch fabric or packet switch fabric, depending on an ATM service category of the IP traffic;

provisioning a portion of the circuit switch fabric resources for circuit switched traffic;

allocating the remaining portion of the circuit switch fabric resources to IP traffic as a controller routes the IP traffic to the circuit switch fabric; and

allocating available circuit switch fabric resources, as indicated by a resource table, to IP traffic requests.

34. (Previously Presented) The method as in claim 33 further comprising the step of maintaining circuit switch ingress and egress resource tables.

35. (Previously Presented) The method as in claim 33 further comprising the step of passing an IP traffic request to a destination node.

36. (Previously Presented) The method as in claim 33 further comprising the step of determining that all nodes along the proposed IP traffic path have allocated circuit switch fabric resources for the IP traffic.

37. (Previously Presented) The method as in claim 36 further comprising the step of establishing an IP traffic path after the determination step.

38. (Previously Presented) The method as in claim 36 further comprising the step of determining whether IP traffic associated with an rt-VBR ATM service category is to be routed through an IP switch fabric or a circuit switch fabric.

39. (Previously Presented) The method as in claim 38 further comprising the step of comparing a sustained packet ratio to a threshold value.

40. (Previously Presented) The switch as in claim 30 wherein the controller is further configured to pass an IP traffic request to a destination node.

41. (Previously Presented) The switch as in claim 30 wherein the controller is further configured to determine that all nodes along a proposed IP traffic path allocate circuit switch fabric resources for IP traffic.

42. (Previously Presented) The switch as in claim 41 wherein the controller is further configured to establish an IP traffic path after determining that all nodes along a proposed IP traffic path allocate circuit switch fabric resources for IP traffic.

IX. EVIDENCE APPENDIX

A copy of the Terminal Disclaimer filed during examination of this application is attached.

X. RELATED PROCEEDINGS APPENDIX

None.

PTO/SB/26 (10-00)
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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT	Docket Number 129250-000971/US

In re Application of: Yang Cao

Application No. 09/620,053

Filed: July 20, 2000

For: APPARATUS AND METHOD FOR SYNCHRONOUS AND ASYNCHRONOUS SWITCHING OF INTERNET PROTOCOL TRAFFIC

Lucent Technologies, Inc.

☐ residing at ,
☒ a corporation of Delaware having a principal place of business at 600 MOUNTAIN Avenue, Murry Hill, New Jersey 07974-0636,
☐ a university having an address of ,

represents that it is the true owner of the entire interest of U.S. patent Application No.09/620, 053, filed July 20, 2000 entitled Apparatus and Method for Synchronous and Asynchronous Switching of Internet Protocol Traffic" (hereinafter "instant application") by virtue of and as evidenced by an Assignment recorded at the United States Patent and Trademark Office at Reel 011018, Frame 0738.

The owner*, Lucent Technologies Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 7,266,110. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

/John E. Curtin/	1/10/08
Signature	Date
John E. Curtin Reg. No. 37,602	
Typed or printed name	

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